

COUNTY OF YORK

MEMORANDUM

DATE: May 5, 2005 (BOS Mtg. 5/17/05)

TO: York County Board of Supervisors

FROM: James O. McReynolds, County Administrator

SUBJECT: Application for exemption from real and personal property taxation Queens Lake Community Association, Inc.

The Queens Lake Community Association, Inc., (The Association) owns real property located in York County at the following addresses:

	<u>Assessment</u>	<u>2005 Taxes</u>
Dennis Drive Parcel	\$ 1,000	\$ 8.18
161 West Queens Drive	\$ 10,000	\$ 81.75
227A West Queens Drive	\$ 500	\$ 4.09
227Z West Queens Drive	\$ 58,000	\$ 474.15
230A West Queens Drive	\$ 1,000	\$ 8.18
232 West Queens Drive	\$ 500	\$ 4.09
234 West Queens Drive	\$ 360,000	\$2,943.00
234A West Queens Drive	\$ 592,300	\$4,842.05
Horseshoe Drive Parcel	<u>\$ 500</u>	<u>\$ 4.09</u>
Total	<u>\$1,023,800</u>	<u>\$8,369.58</u>

The land and improvements thereon is currently assessed for real estate taxation for a total of \$1,023,800. The Association is assessed for real estate taxes in the amount of \$8,369.58 for calendar year 2005. They have not reported ownership of any personal property on which local taxes could be assessed.

The Association, following the procedure outlined in Code of Virginia §58.1-3651, is requesting exemption from real and personal property taxation. Such exemptions may be granted by the Board of Supervisors pursuant to Code of Virginia §58.1-3651 for the “real or personal property taxes, or both, owned by a nonprofit organization that uses such property for religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purposes.” Further, “no exemption shall be provided to any organization that has any rule, regulation, policy, or practice that unlawfully discriminates on the basis of religious conviction, race, color, sex, or national origin.”

Code of Virginia §58.1-3651 (copy attached) further sets out the criteria, which must be considered by the Board when adopting any such ordinance. I have repeated each of those criteria below, numbered consistently as set out in the state statute, and below each

criteria, in italics, have set out the responsive information provided by The Association. That information is set out in a letter from Ms. Joanne Andrews, President, Queens Lake Community Association (copy attached).

- 1) Whether the organization is exempt from taxation pursuant to §501(c) of the Internal Revenue Code of 1954.

The Queens Lake Community Association is exempt from taxation under §501(c)(7) of the Internal Revenue Code. (See enclosed IRS Form 990). We are incorporated in the State of Virginia.

- 2) Whether a current annual alcoholic beverage license for serving alcoholic beverages has been issued by the Virginia Alcoholic Beverage Control Board to such organization, for use on such property.

The Association does not have an alcoholic beverage license issued by the Virginia Alcoholic Beverage Control Board; however, we are permitted to provide alcoholic beverages at private adult parties for members and guests.

- 3) Whether any director, officer, or employee of the organization is paid compensation in excess of a reasonable allowance for salaries or other compensation for personal services which such director, officer, or employee actually renders.

No director or officer of The Association is compensated for his or her personal services.

- 4) Whether any part of the net earnings of such organization inures to the benefit of any individual, and whether any significant portion of the service provided by such organization is generated by funds received from donations, contributions, or local, state or federal grants. As used in this subsection, donations shall include the providing of personal services or the contribution of in-kind or other material services.

None of the net earnings of the organization inures to the benefit of any individual. No funds accrue from local, state, or federal grants. The Association accepts donations and contributions, including personal services; however, donations and contributions do not constitute "any significant portion" of The Association's net earnings. (See Form 990, Part VII for an analysis of income production.)

- 5) Whether the organization provides services for the common good of the public.

The Queens Lake Community Association provides activities for youth and adults in the neighborhood and maintains properties – the buildings, swimming pool, playground, tennis courts, baseball field and marina – that serve residents throughout York County. For instance, the Girl Scouts and Brownies use the clubhouse – and many of the girls are not from Queens Lake. Likewise, the clubhouse is used by a local religious organization for Sunday services. A bridge

group and an art group also use the clubhouse for functions, and some of the members are from outside of Queens Lake. The marina is used by residents from throughout York County, and the marina property has been used by local scouts and students as part of an oyster seedling project. The Queens Lake swim team, which consists of youth from both inside and outside Queens Lake, is based at our swimming pool, and swim meets held at our pool benefit youth from around the entire area. These services enhance the common good of the public and reduce the demand for County-provided services.

- 6) Whether a substantial part of the activities of the organization involves carrying on propaganda, or otherwise attempting to influence legislation and whether the organization participates in, or intervenes in, any political campaign on behalf of any candidate for public office.

In general, we do not engage in political activity. On a nonpartisan basis, we do provide meeting space for political organizations and local public officials are encouraged to address residents' concerns at Association and other community meetings held at our clubhouse.

- 7) The revenue impact to the locality and its taxpayers of exempting the property.

Exempting The Association's property will have a positive impact on the County's revenue and will benefit County taxpayers. The property tax bill paid by the Association in 2004 was \$8,370.00. This represents only 0.014% of the 2004 York County budget. To the County this is an insignificant amount. To The Association this represents a significant portion of our annual budget and is the equivalent of roughly 27 additional memberships. This is money that would have to be raised either through a membership drive, increased membership fees, or reduced services provided to the community. We face the prospect of approaching the membership to authorize an increase in dues due to escalating insurance premiums and higher expenses of other kinds. Experience has shown that every time we increase the membership dues we lose members, and the more we must charge for membership, the harder it is to gain new members. Furthermore, as a mature community, a large number of Queens Lake residents are senior citizens living on a fixed income. They can ill afford an increase in fees, and many choose not to participate because their children are gone and they do not use the facilities. The reality, therefore, is that if we must absorb this year's tax assessment, we will have to consider reducing the services we provide, or increase dues, which will negatively impact every County resident who uses this property.

- 8) Any other criteria, facts and circumstances that the governing body deems pertinent to the adoption of such resolution.

Section 58.1-3651, paragraph B, also provides that no exemption shall be provided to any organization that discriminates on the basis of religious conviction, race, color, sex, or national origin. The Queens Lake Community Association does not engage in any such impermissible discrimination. Our bylaws provide

that we accept as members, any landowner or resident of Queens Lake who wishes to become a member of the Queens Lake Community Association. In addition, we offer limited memberships to residents from outside the Queens Lake community who wish to participate in Queens Lake Association activities, including the swimming pool, swim team activities and the marina.

In addition, Code of Virginia §58.1-3651 requires that the ordinance state the specific use on which the exemption is based, and continuance of the exemption shall be contingent on the continued use of the property in accordance with the purpose for which the organization is classified or designated. The classifications available are religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground. The classification that The Association seems to most closely fit is “public park and playground.”

In the past, requests for exemption from real and personal property taxation required the Board to pass a resolution making a recommendation to the General Assembly who would in turn consider the request, and, if granted, would codify the exemption. Changes to the Code of Virginia have now passed the granting authority to the local governing body. The Code of Virginia includes the names of the organizations, together with the dates and section numbers of the adopted legislation for which the General Assembly granted real and personal property tax exemption prior to the change to the Code of Virginia. The list includes over 1,000 organizations. I have not included copies of those pages from the state code, but they may be found in any copy of the Virginia State Code as §58.1-3650.1 through 58.1-3650.1001.

Furthermore, section 58.1-3651 does not define what is meant by “public park and playground purposes” (the proposed tax exemption category), whether for example a recreational facility must be open without restriction to the all members of the public in order to qualify for a tax exemption under that heading. However, a perusal of the names of the organizations previously granted exemptions by the General Assembly prior to January 1, 2003, before authority to grant such exemptions was passed to local governments, suggests that other organizations similar to The Association have received tax exemptions in the past, although the list of names does not reveal anything about the other organizations’ membership restrictions. See, for example, exemptions granted to “Property of Holmes Run Acres Recreation Association, Inc.” (2001), and to “Property of Walden Glen Swim and Racquet Club, Inc.” (2001). Note that a property tax exemption was granted in 2002 to Running Man Recreation Association, Inc., of York County, even though the information provided to the County at the time of the application indicated that membership was restricted to residents of Running Man. It appears, then, that having a restricted membership policy did not prevent the General Assembly in years past from granting a property tax exemptions under the heading of “public park and playground purposes.” In addition, the Board of Supervisors granted similar requests from the Marlbank Recreation Association on July 13, 2004, from the Edgehill Association, Inc. on September 21, 2004, and from the Windy Point Recreation Association, Inc. on December 7, 2004.

Proposed Ordinance No. 05-14 has been prepared for the Board’s consideration. If adopted, this ordinance will grant exemption from real and personal property taxation to

York County Board of Supervisors

May 5, 2005

Page 5

the Queens Lake Community Association, Inc. on the basis of use for public park and playground.

Please let me know if you have any questions.

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Attachments

- Code of Virginia §58.1-3651
- Letter from Joanne Andrews, President, Queens Lake Community Association, Inc. (with attachments)
- Proposed Ordinance No. 005-14